IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 24TH OCTOBER 2007 / 2ND KARTHIKA 1929

Bail Appl..No. 6483 of 2007()

(CC. 863/2003 ON THE FILES OF CHIEF JUDICIAL MAGISTRATE COURT, ERNAKULAM AND CRIME NO. 305/2002 OF CENTRAL POLICE STATION, ERNAKULAM)

PETITIONER/7TH ACCUSED

MR.GIRIJA VALLABHAN, AGED 54 YEARS,
S/O.SAHADEVAN, C.S.NIVASA, SARKARA,
CHIRAYINKEEZHU, THIRUVANANTHAPURAM.

BY ADV. SRI.VINCENT JOSEPH

RESPONDENTS: COMPLAINANT/STATE

STATE OF KERALA, REPRESENTED BY THE
SUB INSPECTOR, THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 24/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.6483 of 2007

Dated this the 24th day of October, 2007

ORDER

Application for anticipatory bail. The petitioner is the 7th accused. He faces indictment in a prosecution under Section 420 I.P.C. Cognizance has already been taken. The petitioner has not appeared before the learned Magistrate so far. A warrant of arrest has been issued by the learned Magistrate to procure the presence of the petitioner. That warrant, it is submitted, was issued only on 17.10.07. The case now has been posted to 31.10.07.

2. According to the petitioner, he is innocent. He had no information of the pendency of the case or issue of any processes against him. He has only now come to know that a warrant of arrest has been issued against him on 17.10.07. The petitioner is willing to surrender before the learned Magistrate and seek bail. But he apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is therefore prayed that directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances

under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This bail application is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

5. There shall be a further direction that the warrant of arrest issued against the petitioner on 17.10.07 shall not be executed till 31.10.07. On or before that date, the petitioner shall appear before the learned Magistrate and seek regular bail.

(R.BASANT, JUDGE)

rtr/-